

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**HALF PRICE BOOKS, RECORDS,  
MAGAZINES, INCORPORATED**

**Plaintiff,**

**V.**

**THE HANOVER INSURANCE  
COMPANY AND THE HANOVER  
INSURANCE GROUP, INC.  
Defendant.**

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**CIVIL ACTION NO. \_\_\_\_\_**

**[JURY DEMANDED]**

**DEFENDANTS' NOTICE OF REMOVAL**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendants, THE HANOVER INSURANCE COMPANY and THE HANOVER INSURANCE GROUP, INC. (collectively "Defendants"), files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and would show this Court as follows:

**PROCEDURAL HISTORY**

1. On August 30, 2016, Half Price Books, Records, Magazines, Incorporated ("Plaintiff"), filed Plaintiff's Original Petition and initiated an action against Defendants in the 298<sup>th</sup> District Court of Dallas County, Texas, in Cause No. DC-16-10751 ("the State Court Action"). See Exhibit "A" attached hereto and incorporated herein by reference.

2. On September 19, 2016, The Hanover Insurance Group, Inc. received service by certified mail through the Texas Secretary of State with a copy of the Citation and Plaintiff's Original Petition. See Exhibit "D" attached hereto and incorporated herein by reference. On September 19, 2016, The Hanover Insurance Company received service by certified mail through the Texas Secretary of State with a copy of the Citation and Plaintiff's Original Petition. See

Exhibit “E” attached hereto and incorporated herein by reference. Defendants timely filed their Answer on October 14, 2016. See Exhibit “F.”

3. Defendants’ Notice of Removal was filed on October 28, 2016, and within the thirty-day statutory time period for removal. 28 U.S.C. § 1446(b).

#### **DIVERSITY JURISDICTION**

4. Plaintiff is a corporation organized under the laws of Texas with its principal place of business in Dallas County, Texas.

5. Defendant, The Hanover Insurance Company, is a corporation organized under the laws of the state of Massachusetts with its principal place of business in Worchester, MA.

6. The Hanover Insurance Group, Inc., is a corporation organized under the laws of the Delaware with its principal place of business in the Worchester, MA.

#### **AMOUNT IN CONTROVERSY**

7. The “matter in controversy” under 28 U.S.C. § 1332(a) is determined by reference to the plaintiff’s pleadings. The damages the plaintiff claims in its petition, if apparently claimed in good faith, are controlling. *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 288 (1938). “Where ... the petition does not include a specific monetary demand, [the defendant] must establish by a preponderance of the evidence that the amount in controversy exceeds \$75,000.” See *Manguno v. Prudential Prop. & Cas. Ins. Co.*, 276 F.3d 720, 723 (5th Cir. 2002). Only “expenses and costs” are excluded from the calculation of the matter in controversy. 28 U.S.C. § 1332(a). Attorney’s fees are an element of the amount in controversy where their recovery is authorized by a statute under which the plaintiff sues. *H&D Tire & Auto. Hardware, Inc. v. Pitney Bowes, Inc.*, 227 F.3d 326, 330 (5th Cir. 2000), cert. denied, 534 U.S. 894 (2001).

8. In its Petition, Plaintiff pleads damages pursuant to Texas Rule of Civil Procedure 47(c)(5) in excess of \$1,000,000. Therefore, the amount in controversy is well over the jurisdictional minimum.

**INFORMATION FOR THE CLERK**

9. Plaintiff: Half Price Books, Records Magazines, Incorporated

10. Defendants: The Hanover Insurance Company and The Hanover Insurance Group, Inc.

11. The case is pending in state court of Dallas County:

298<sup>th</sup> Judicial District Court  
Honorable Emily Tobolowsky  
600 Commerce Street, 8<sup>th</sup> Floor  
Dallas, Texas 75202  
(214)653-6781

12. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81, Defendants have attached copies of all processes and pleadings served upon it in the state court action. No further proceedings have been had therein. Pursuant to Local Rule 81, a copy of the trial court's docket sheet is attached as Exhibit "G" and an Index of Matters Being Filed is attached.

13. There are no other filings in state court at this time.

14. Counsel for Plaintiff, Half Price Books:  
Michael A. Miller; Texas Bar No.: 14100650  
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15. Counsel for Defendants:  
Peri H. Alkas; Texas Bar No.: 00783536  
Laura Balhoff Englert; Texas Bar No.: 24055135  
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ONE ALLEN CENTER

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Telecopier: 713- 626-1388

**JURY DEMAND**

16. Both Plaintiff and Defendants made a demand for a jury in the State Court Action. Defendants hereby request a trial by jury in federal court as well.

**MISCELLANEOUS**

17. Pursuant to 28 U.S.C. § 1446(d), and on the same day this Notice of Removal was filed, Defendant filed notice of this removal in the State Court Action. A copy of this Notice of Removal filed in the State Court Action is attached as Exhibit “H.”

18. Because Plaintiff is a resident of Texas, Defendant, The Hanover Insurance Group, Inc., is a corporation organized under the laws of the Delaware with its principal place of business in Worchester, Massachusetts; Defendant, The Hanover Insurance Company, is a corporation organized under the laws of the state of Massachusetts with its principal place of business in Worchester, Massachusetts; and the amount in controversy exceeds \$75,000, the Court has subject matter jurisdiction based on diversity of citizenship and residency. 28 U.S.C. § 1132. As such, this removal action is proper.

**PRAYER**

WHEREFORE, Defendants, The Hanover Insurance Company and The Hanover Insurance Group, Inc., respectfully request that the above entitled action be removed from the 298<sup>th</sup> District Court of Dallas County, Texas, to the United States District Court for the Northern District of Texas, Dallas Division.

Respectfully submitted,

BY: /s/ Peri H. Alkas

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**ATTORNEY-IN-CHARGE FOR  
DEFENDANTS**

**OF COUNSEL:**

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been served upon all counsel as listed below by placing a copy of same in the United States mail, certified, return receipt requested, facsimile, electronically, and/or hand delivery on October 28, 2016.

Michael A. Miller  
THE MILLER LAW FIRM  
TURTLE CREEK CENTRE  
3811 Turtle Creek Blvd., Suite 1950  
Dallas, Texas 75219

VIA CM/RRR: 7014 3490 0000 3310 7266  
& VIA E-MAIL: [mmiller@tmlfpc.com](mailto:mmiller@tmlfpc.com)

/s/ Peri H. Alkas

Peri H. Alkas / Laura Balhoff Englert